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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re Marriage of CAROLINE and R.D.
FALKINBERG.

B228022

(Los Angeles County
Super. Ct. No. BD 512512)

CAROLINE FALKINBERG,

Appellant,

v.

R.D. FALKINBERG,

Respondent.

APPEAL from a judgment of the Superior Court of Los Angeles County,
Marjorie S. Steinberg, Judge. Affirmed.

Caroline Falkinberg, in pro. per., for Appellant.

No appearance for Respondent.

* * * * *

Appellant, Caroline Falkinberg, appeals after the superior court entered an order dismissing her action, without prejudice, under the provisions of Code of Civil Procedure sections 581 through 583.430. We affirm.

PROCEDURAL HISTORY

Appellant filed her petition for a declaration of nullity of marriage on September 18, 2009, naming as respondent R.D. Falkinberg. On the record before us, no valid proof of service of summons was filed with the superior court indicating that respondent R.D. Falkinberg was ever served as a party in this action, and there is no indication R.D. Falkinberg ever appeared in, or was even aware of, this action.

On July 27, 2010, the trial court gave notice to appellant of a case review conference to be held on August 30, 2010. The notice indicated appellant needed to serve the person named as respondent and to file a proof of service of summons with the court in order to continue with her family law case. Appellant did not appear for the scheduled case review conference on August 30, 2010, nor does the record establish that the clerk received any valid proof of service of summons upon the respondent. Accordingly, the court issued an order directing appellant to appear on October 8, 2010, to show cause why sanctions, including striking appellant's pleading or dismissing the case, should not be imposed for appellant's failure to appear at the case review conference. Appellant was served notice of this order. On November 8, 2010, the court ordered the action dismissed, without prejudice, under the provisions of Code of Civil Procedure sections 581 through 583.430 for appellant's failure to appear to show cause.

An order of dismissal was filed and entered on November 8, 2010. Appellant was given notice of the dismissal by the clerk on November 9, 2010. Appellant filed a timely notice of appeal from this order on November 17, 2010.

DISCUSSION

On November 4, 2011, appellant submitted an amended opening brief to this court, which was rejected for filing for failure to comply with the California Rules of Court. By order of November 7, 2011, this court directed and notified appellant that she must properly serve and file an appellant's opening brief on or before November 18,

2011, “with proper [citations] to the record on appeal, or the appeal will be dismissed without further notice.” Appellant then submitted a second amended appellant’s opening brief that suffers from the same defects as the amended opening brief that this court previously rejected.

Among other things, appellant’s second amended opening brief lacks citations to the record. (Cal. Rules of Court, rule 8.204(a)(1)(C).)¹ The second amended opening brief also fails to provide “a summary of the significant facts *limited to matters in the record.*” (Rule 8.204(a)(2)(C), italics added.) The brief further fails to state the nature of the action (rule 8.204(a)(2)(A)), the table of authorities lacks references to the pages at which the authorities appear (see rule 8.204(a)(1)(A)), and appellant has neglected to support each argument by citation to authority (rule 8.204(a)(1)(B)).

Appellant also has failed to comply with the requirement that each point be set forth in a separate heading or subheading summarizing the point and be supported by argument related to the heading. (Rule 8.204(a)(1)(B).) For the most part, the content of the text appearing under headings in the second amended brief have no relationship to the titles under which such matters appear. Beyond these failures, the second amended opening brief is single-spaced in violation of the requirement that a brief be at least one-and-a-half spaced. (Rule 8.204(b)(5).)

These violations of the court rules place an inordinate burden on this court.

Much more serious is appellant’s failure to substantively demonstrate error by the trial court. Appellant is appealing from the judgment of dismissal of her petition for order annulling her 17-day marriage to R.D. Falkinberg. Appellant purports to raise a number of issues, none of which is supported by any reasoned argument or authority. It is the appellant’s duty to establish error and prejudice. (*Pringle v. La Chapelle* (1999) 73 Cal.App.4th 1000, 1003.) “Contentions supported neither by argument nor by citation of authority are deemed to be without foundation, and to have been abandoned.” (*Estate of Randall* (1924) 194 Cal. 725, 728-729.) When an issue is unsupported by “pertinent or

¹ All further rule references are to the California Rules of Court.

cognizable” legal argument, we may deem the point abandoned and pass it without consideration. (*Landry v. Berryessa Union School Dist.* (1995) 39 Cal.App.4th 691, 699-700; see 9 Witkin, Cal. Procedure (5th ed. 2008) Appeal, § 701, pp. 769-771.)

We therefore presume, as we must, that the judgment below is correct. (See 9 Witkin, Cal. Procedure, *supra*, Appeal, § 355, p. 409.)

DISPOSITION

The judgment is affirmed.

FLIER, J.

WE CONCUR:

BIGELOW, P. J.

RUBIN, J.